

American Ecology

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STEPHEN A ROMANO
President and
Chief Operating Officer

March 8, 2002

U.S. Nuclear Regulatory Commission
Attn: Mr. Martin Virgilio, Director
Office of Nuclear Material Safety
And Safeguards
Washington, D.C. 20655-0001

Re: Request for Response to American Ecology's 12/3/01 Inquiry Into Maywood, New
Jersey FUSRAP Project Waste Disposal Decision Authority

Dear Mr. Virgilio:

This is to request a timely response to the above correspondence to help ensure that
American Ecology is not deprived of a significant economic opportunity.

We specifically seek NRC concurrence that pre-1978 material at the Maywood site which
is not governed by an 11.e(2) license may, at the U.S. Army Corps of Engineers'
(USACE) discretion, be disposed of at facilities permitted to accept these wastes whether
or not such off-site disposal facilities have an 11.e(2) license.

In addition to the information in our December 3, 2001 letter, we note that that Congress
granted the USACE the above authority through enactment of the 1998 Energy and
Water Development Appropriations Act. In doing so, Congress used the appropriations
process to exclude NRC regulatory authority under UMTRCA with respect to FUSRAP.

In the 1999 Energy and Water Development Appropriations Act, Congress affirmed this
exclusion and further specified that remedial actions undertaken by the USACE under
FUSRAP are subject to the Comprehensive Environmental Response, Compensation and
Liability Act (CERCLA). CERCLA grants very broad authority to fashion remedies
notwithstanding other environmental laws, further evidencing the intent of Congress that
FUSRAP remedy selection is not subject to NRC jurisdiction. The 2001 appropriations
bill contains similar language, indicating that Congress made a conscious choice.

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We believe that Congress' decision to assign health and safety responsibility to the USACE under CERCLA provides authority to utilize disposal facilities permitted under the Resource Conservation and Recovery Act and approved by responsible state regulatory agencies to accept limited concentrations of various radionuclides.

American Ecology's disposal facility near Grand View, Idaho is authorized to accept CERCLA waste. Since the nuclide concentrations in approximately 80% (400,000 tons) of the Maywood waste fall within the permit limits established for our Idaho facility, there is no health and safety reason or site permit condition that would prevent us from receiving such material. With five decades of experience handling radioactive materials at multiple facilities (including numerous facilities licensed under the Atomic Energy Act), American Ecology also has the requisite expertise to properly administer the waste acceptance criteria, radiological monitoring and worker protection aspects of its permit.

For these reasons and others set forth in our December 3, 2001 letter, we respectfully submit that the USACE has full authority to designate our Idaho facility as a suitable repository for FUSRAP waste at the Maywood site that meets our facility's permitted waste acceptance criteria, and is not currently regulated under an 11.e(2) license.

We hope this additional information is useful and look forward to NRC's response. In the meantime, please contact me at (208) 331-8400 if you or your staff have questions.

Sincerely,



Stephen A. Romano
President and Chief Operating Officer

cc: Richard Meserve, Chairman, and Members, USNRC
Michael Weber, USNRC
Tim Curtin, US Ecology Idaho, Inc.
C. Russ Meyer, Radiation Safety Officer, US Ecology Idaho, Inc.
Tom Urbaniak, FUSRAP Program Manager, USACE, Kansas City
Jean Jennings, Contract Administrator, USACE, Kansas City
Ann Wright, Counsel, USACE, Omaha